

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

CITY OF UNALASKA,

Plaintiff,

v.

NATIONAL UNION FIRE
INSURANCE COMPANY,

Defendant.

Case No. 3:21-cv-00096-SLG

**ORDER RE MOTIONS FOR PREJUDGMENT INTEREST
AND ATTORNEY'S FEES**

Before the Court is Plaintiff City of Unalaska's ("the City's") unopposed *Motion for Prejudgment Interest* at Docket 30 and unopposed *Motion for Attorney's Fees* at Docket 31. Oral argument was not requested and was not necessary to the Court's determination.

DISCUSSION

I. Prejudgment Interest

The City moves for prejudgment interest, the award of which is governed by state law in diversity cases.¹ Under Alaska law, "[a]n award of prejudgment interest should be denied only to avoid an injustice,' such as a double recovery."²

¹ See *In re Exxon Valdez*, 484 F.3d 1098, 1101 (9th Cir. 2007).

² *Cole v. Bartels*, 4 P.3d 956, 958 (Alaska 2000) (quoting *Tookalook Sales & Serv. v. McGahan*, 846 P.2d 127, 129 (Alaska 1993)).

The Court finds that awarding prejudgment interest is appropriate here as doing so would not result in a double recovery and Defendant National Union Fire Insurance Company (“National Union”) has not opposed the instant motion.³

Alaska Statute 09.30.070, which governs the award of prejudgment interest, provides that prejudgment interest generally “accrues from the day process is served on the defendant or the day the defendant received written notification that an injury has occurred and that a claim may be brought against the defendant for that injury, whichever is earlier.”⁴ The statute sets the rate of prejudgment interest at “three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered.”⁵

Here, the Court entered judgment for the City in the amount of \$515,631.67 on March 21, 2022,⁶ and the applicable prejudgment interest rate is 3.25%.⁷ While the City suggests that November 5, 2019, the date on which it formally submitted

³ See *Cole*, 4 P.3d at 958–59 (“The party opposing a prejudgment interest award bears the burden to show that a double recovery would result; otherwise prejudgment interest is awarded as a matter of course.”).

⁴ Alaska Stat. § 09.30.070(b).

⁵ *Id.* § 09.30.070(a).

⁶ See Docket 29 (Judgment). The City appears to assert, erroneously, that the judgment was entered on April 1, 2022. See Docket 30 at 2.

⁷ The 12th Federal Reserve District discount rate on January 2, 2022 was 0.25%. See *Discount Rate*, Fed. Rsrv. Bank of S.F., <https://www.frbsf.org/banking/discount-window/discount-rate/> (last visited Apr. 27, 2022).

its claim to National Union, could be used as the date of accrual, it ultimately requests that the Court use December 16, 2019, the date on which National Union denied coverage under the Computer Fraud Insuring Agreement.⁸ Using December 16, 2019 as the accrual date, the resulting amount of prejudgment interest is \$37,923.65.

II. Attorney's Fees

The City also moves for an award of attorney's fees.⁹ Because this is a diversity action, the award of attorney's fees is governed by Alaska Rule of Civil Procedure 82.¹⁰ In cases that result in a money judgment, Rule 82(b)(1) provides a schedule that sets the prevailing party's fee award at a percentage of the judgment and any prejudgment interest. When, as here, a case is contested without trial, Rule 82 sets the fee award as 18% of the first \$25,000 of the judgment and any prejudgment interest, 8% of the next \$75,000, 6% of the next \$400,000, and 2% of any amount over \$500,000.

The Court has entered judgment in the amount of \$515,631.67, and as discussed above, the Court will also award prejudgment interest in the amount of \$37,923.65, resulting in a total of \$553,555.32. Applying Rule 82(b)(1)'s fee

⁸ Docket 30 at 2 (citing Docket 1-1 (Compl.) at 10, ¶ 47).

⁹ Docket 31.

¹⁰ See *Alaska Rent-A-Car, Inc. v. Avis Budget Grp., Inc.*, 738 F.3d 960, 973–74 (9th Cir. 2013).

schedule to this total yields a fee award of \$35,571.11. Neither the City nor National Union has proposed that the Court vary this award under Rule 82(b)(3), and the Court is not inclined to do so.

CONCLUSION

The City's motions at Docket 30 and Docket 31 are GRANTED. The City is awarded prejudgment interest in the amount of \$37,923.65 and attorney's fees in the amount of \$35,571.11. The Clerk of Court is directed to update the final judgment accordingly.

DATED this 28th day of April, 2022, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE